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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,859	09/12/2003	Jeffery T. Hebbard	013002-9050-00	8766
23409	7590	03/21/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP				TORRES, ALICIA M
100 E WISCONSIN AVENUE				ART UNIT
MILWAUKEE, WI 53202				PAPER NUMBER
				3671

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/661,859	HEBBARD ET AL.	
	Examiner	Art Unit	
	Alicia M Torres	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,6-12,14-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,8 and 21 is/are rejected.
- 7) Claim(s) 3,6,7,9-12,14-20 and 23-25 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Claim Objections

Claim 1 is objected to because of the following informalities: “,” in line 14 should be changed to --;-- . Appropriate correction is required.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweet in view of Nuss and Nehata JP 5-219815.

Regarding claims 1, 2 and 8, Sweet discloses a lawnmower (1) comprising:

a deck (4) having a discharge opening (6);

an engine (5) supported by said deck (4) and having an output shaft (not shown) rotating in response to operation of said engine (5);

a cutting blade (not shown) interconnected with said output shaft under said deck (4) and rotatable in response to rotation of said output shaft to cut vegetation;

a mower handle (unnumbered steering mechanism, see Figure 1) attached to said deck (4) and extending upwardly therefrom;

a bag assembly (18) releasably attached to the rest of said lawnmower (1), said bag assembly (18) including a frame (8, 9), a bag (18) attached to said frame (8, 9) and having a bag (18) opening aligned with said discharge opening (6), and at least one wheel (10) rotatably mounted to said frame (8, 9),

wherein during operation of said lawnmower (1), clippings from under said deck (4) are discharged into said bag (18) through said discharge opening (6) and bag (18) opening;

wherein said bag assembly (18) is detachable from the rest of said lawnmower (1) to haul away clippings in said bag (18), as per claim 1; and

wherein the bag assembly (18) includes an axle (unnumbered) interconnected with the frame (8, 9) and wherein the at least one wheel (10) is mounted for rotation on the axle, as per claim 2.

However, Sweet fails to disclose said at least one wheel being in a stowed condition during lawnmower operation; and

a bag handle coupled to the bag assembly, the bag handle movable between an extended position and a retracted position only when the bag assembly is detached from the rest of the lawnmower,

wherein, to enable rolling said bag assembly away from the rest of said lawnmower, said at least one wheel at least partially supports said bag assembly only when said bag assembly is detached from the rest of said lawnmower, and wherein said bag assembly is oriented with said at least one wheel on top when said bag assembly is attached to the rest of said lawnmower, and wherein said bag assembly is oriented with said at least one wheel on the bottom when rolling said bag assembly away from the rest of said lawnmower, as per claim 1; and

wherein said bag handle must be in said retracted condition to enable said bag assembly to be attached to the rest of said lawnmower, and wherein said bag handle is movable to said extended condition when said bag assembly is detached from the rest of said lawnmower to facilitate rolling said bag assembly away from the rest of said lawnmower, as per claim 8.

Nuss discloses a similar bag (1) including at least one wheel (12) being in a stowed condition (see Figure 3) during lawnmower operation; and

wherein, to enable rolling said bag assembly (1) away from the rest of said lawnmower (4), said at least one wheel (12) at least partially supports said bag assembly (1) only when said bag assembly (1) is detached from the rest of said lawnmower (4), and wherein said bag assembly (1) is oriented with said at least one wheel (12) on top when said bag assembly (1) is attached to the rest of said lawnmower (4, see Figure 4), and wherein said bag assembly (1) is oriented with said at least one wheel (12) on the bottom when rolling said bag assembly (1) away from the rest of said lawnmower (4).

Nehata discloses a bag handle (26) coupled to the bag assembly (2), the bag handle (26) movable between an extended position (see Figure 8) and a retracted position (see Figure 3) only when the bag assembly (2) is detached from the rest of the lawnmower (7), as per claim 1; and

wherein said bag handle (26) must be in said retracted condition, see Figure 3 to enable said bag assembly (2) to be attached to the rest of said lawnmower (7), and wherein said bag handle (26) is movable to said extended condition when said bag assembly (2) is detached from the rest of said lawnmower (7) to facilitate moving said bag assembly (2) away from the rest of said lawnmower (4), as per claim 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel and handle of Nuss and Nehata on the bag assembly of Sweet in order to more easily transport the bag assembly.

Regarding claim 21, Sweet discloses a lawnmower (1) comprising:

A deck (4) defining a discharge opening (6);

An engine (5) supported by the deck (4);

A cutting blade (not shown) rotating below the deck (4) in response to operation of the engine (5); and

A bag assembly (18) releasably mounted to the deck (4) and including a bag (18) communicating with the discharge opening (6), and at least one wheel (10).

However, Sweet fails to disclose a handle movable between a retracted condition and an extended condition; and

Wherein movement of the handle is inhibited when the bag assembly is attached to the deck such that the handle is movable into the extended condition only when the bag assembly is detached from the deck to facilitate rolling the bag assembly away from the rest of the lawnmower,

wherein the at least one wheel is at the top of the bag assembly when the bag assembly is mounted to the deck such that the at least one wheel bears no weight of the bag assembly during operation of the lawnmower.

Nehata discloses a handle (26) movable between a retracted condition and an extended condition; and

Wherein movement of the handle (26) is inhibited when the bag assembly (2) is attached to the deck (7) such that the handle (26) is movable into the extended condition only when the bag assembly (2) is detached from the deck (7) to facilitate rolling the bag assembly (2) away from the rest of the lawnmower (7).

Nuss discloses wherein the at least one wheel (12) is at the top of the bag assembly (1) when the bag assembly (12) is mounted to the deck (4) such that the at least one wheel (12) bears no weight of the bag assembly (1) during operation of the lawnmower (4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel and handle of Nuss and Nehata on the bag assembly of Sweet in order to more easily transport the bag assembly.

Allowable Subject Matter

Claims 3, 6, 7, 9-11 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12 and 14-20, 31 and 25 are allowed.

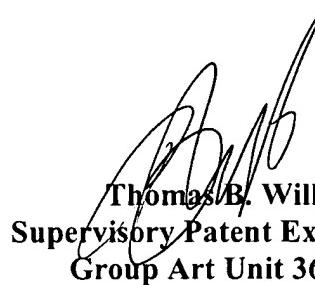
Conclusion

Art Unit: 3671

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
March 9, 2005